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HOUSE BILL 396

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Daniel P. Silva

AN ACT

**RELATING TO TAXATION; PROVIDING FOR A GROSS RECEIPTS TAX
CREDIT FOR CERTAIN BUSINESS-RELATED SERVICES; PROVIDING FOR
ADJUSTED DISTRIBUTIONS.**

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**Section 1. A new section of the Tax Administration Act
is enacted to read:**

**" [NEW MATERIAL] DISTRIBUTION ADJUSTMENT-- TAX
ADMINISTRATION SUSPENSE FUND-- BUSINESS SERVICES TAX CREDIT. --
Distributions from the tax administration suspense fund of
revenue attributable to the gross receipts tax shall be
adjusted for the full cost of business services tax credits
issued. "**

**Section 2. A new section of the Gross Receipts and
Compensating Tax Act is enacted to read:**

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1 "[~~NEW MATERIAL~~] BUSINESS SERVICES TAX CREDIT. --

2 A. The tax credit provided in this section may be
3 referred to as the "business services tax credit". The
4 purpose of the business services tax credit is to reduce the
5 tax burden on businesses that results from multiple
6 impositions of transactional taxes upon the sale or use of
7 services that businesses purchase.

8 B. A qualified taxpayer that owns a business with
9 gross receipts in the previous calendar year that do not
10 exceed three hundred thousand dollars (\$300,000) may apply
11 for, and the department may allow, a business services tax
12 credit for qualified expenditures made during a tax reporting
13 period in an amount equal to:

14 (1) three and seven hundred seventy-five
15 thousandths percent of those qualified expenditures for the
16 purchase of a service within a municipality; and

17 (2) five percent of those qualified
18 expenditures for the purchase of a service within an
19 unincorporated area of a county.

20 C. Except as provided in Subsection D of this
21 section, the business services tax credit may be claimed
22 against the gross receipts tax or the compensating tax for
23 which the taxpayer would be liable for a tax reporting period
24 in which the qualified expenditure was paid or in later
25 periods. In no case may the credit taken exceed the total

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1 gross receipts tax or compensating tax due for the reporting
2 period. After the initial reporting period in which part of
3 the credit for a qualified expenditure was claimed, any excess
4 credit may be carried forward and used in future reporting
5 periods for three years.

6 D. Gross receipts taxes of entities that form a
7 group of entities that, through one or more intermediaries,
8 control, are controlled by or are under common control with
9 other entities in that group shall be aggregated. Qualified
10 expenditures of those entities shall be aggregated for the
11 purposes of determining the aggregate business services tax
12 credit for the group of entities. The aggregate business
13 services tax credit may be claimed against the aggregate gross
14 receipts taxes of the group of entities.

15 E. For the purposes of this section:

16 (1) "qualified expenditure" means the amount
17 paid by a qualified taxpayer to purchase a service that is
18 deductible for purposes of determining net income pursuant to
19 Section 162 of the Internal Revenue Code and for which gross
20 receipts from performance of that service are subject to the
21 gross receipts tax and are not eligible for a deduction or
22 exemption from the gross receipts tax, but does not include
23 expenditures for:

- 24 (a) commercial linen supply services;
- 25 (b) entertainment or recreational

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1 services;

2 (c) intrastate telephone and telegraph
3 services;

4 (d) janitorial or cleaning services;

5 (e) landscaping services;

6 (f) repair and maintenance services;

7 (g) construction services;

8 (h) research and development services;

9 (i) sewer and solid waste disposal
10 services; and

11 (j) services, the purchase price of
12 which is the basis for any other New Mexico tax credit claimed
13 and allowed either prior or subsequent to the business
14 services tax credit; and

15 (2) "qualified taxpayer" means a person
16 liable for payment of any tax or a person to whom an
17 assessment has been made if the assessment remains unabated or
18 the amount of the assessment has not been paid, but does not
19 include:

20 (a) a federal, state, tribal or other
21 governmental unit or subdivision or an agency, department,
22 institution or instrumentality of a federal, state, tribal or
23 other governmental unit or subdivision;

24 (b) a taxpayer that is a nonprofit
25 entity and for which receipts are exempt from the gross

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1 receipts tax pursuant to Sections 7-9-16 and 7-9-29 NMSA 1978;
2 or

3 (c) a taxpayer for which receipts are
4 exempt from the gross receipts tax pursuant to Section 7-9-24
5 NMSA 1978. "

6 Section 3. EFFECTIVE DATE. --The effective date of the
7 provisions of this act is July 1, 2007.

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